

# THE AGENCY

BROOME COUNTY IDA / LDC

**1. Applicant Information**

Broome County Industrial Development Agency (BCIDA)  
Five South College Drive  
Binghamton, NY 13905

**2. Funding Requested**

- a. Assessment Grant Type: Coalition
- b. Federal Funds Requested: \$600,000
- c. Contamination: Hazardous Substances

**3. Location**

- a. Town of Union, Village of Johnson City, Village of Endicott, Town of Maine
- b. Broome County
- c. New York

**4. Property Information for Site-Specific Proposals**

N/A: This is not a Site-Specific Proposal

**5. Contacts****a. *Project Director***

Ms. Stacey Duncan  
Deputy Director, Community & Economic Development  
Broome County IDA  
Five South College Drive  
Binghamton, NY 13905  
607.584.9000  
smd@theagency-ny.com

**b. *Chief Executive***

Mr. Kevin McLaughlin  
Executive Director  
Broome County IDA  
Five South College Drive  
Binghamton, NY 13905  
607.584.9000  
km@theagency-ny.com

**6. Population (2017 U.S. Census Bureau PEP Estimates)**

Broome County: 193,639  
Town of Union: 54,033  
Town of Maine: 5,184  
Village of Johnson City: 14,508  
Village of Endicott: 12,828

**7. Other Factors Checklist**

Community population is 10,000 or less.	<b>NO</b>
The applicant is, or will assist, a federally recognized Indian tribe or United States territory.	<b>NO</b>
The priority brownfield site(s) is impacted by mine-scarred land.	<b>NO</b>
The priority site(s) is adjacent to a body of water (i.e., the border of the priority site(s) is contiguous or partially contiguous to the body of water, or would be contiguous or partially contiguous with a body of water but for a street, road, or other public thoroughfare separating them).	<b>YES 3 OF 7</b>
The priority site(s) is in a federally designated flood plain.	<b>YES 3 OF 7</b>
The redevelopment of the priority site(s) will facilitate renewable energy from wind, solar, or geothermal energy; or any energy efficiency improvement projects.	<b>UNK.</b>
30% or more of the overall project budget will be spent on eligible reuse planning activities for priority brownfield site(s) within the target area.	<b>NO</b>

**8. Letter from the State or Tribal Environmental Authority**

An acknowledgement letter from the New York State Department of Environmental Conservation, dated January 25, 2019 is attached.

ATTACHMENT  
New York State Department of Environmental Conservation  
Acknowledgement Letter

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Remediation, Bureau of Program Management  
625 Broadway, 12th Floor, Albany, NY 12233-7012  
P: (518) 402-9764 | F: (518) 402-9722  
www.dec.ny.gov

January 25, 2019

Mr. Kevin McLaughlin  
Executive Director  
Broome County Industrial Development Agency  
Five South College Drive  
Binghamton, NY 13905

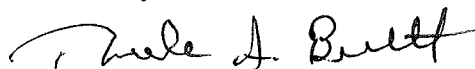
Dear Mr. McLaughlin:

This is to acknowledge that the New York State Department of Environmental Conservation (DEC) received a request from Elan Planning, Design, Landscape Architecture PLLC on behalf of Broome County Industrial Development Agency (BCIDA), dated January 21, 2019, for a state acknowledgement letter for a Federal Year 2019 United States Environmental Protection Agency (USEPA) Brownfields grant.

I understand that BCIDA plans to submit a Brownfield Coalition Assessment Grant application for up to \$600,000 on behalf of the Broome County Brownfield Coalition which includes BCIDA, Town of Union, and Villages of Endicott and Johnson City. Focus of the funding will be to conduct Phase I and II Environmental Site Assessments on at least five brownfield sites located in areas of Broome County under the jurisdiction of the coalition members. In addition to site assessments, funding will be allocated for inventory preparation, site selection criteria development, redevelopment planning (including cleanup planning) and community involvement activities.

DEC encourages initiatives to redevelop brownfields with the goal of mitigating any environmental and health impacts that they might pose.

Sincerely,



Theodore Bennett  
Director  
Bureau of Program Management

ec: T. Wesley, USEPA Region 2  
S. Edwards, DEC Albany  
H. Warner, DEC Region 7  
S. Lizlovs, DEC Region 7  
R. Materese, Town of Union  
J. Bertoni, Village of Endicott  
G. Deemie, Village of Johnson City  
C. Koenig, Elan



Department of  
Environmental  
Conservation

## PROJECT NARRATIVE

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### 1. Project Area Description and Plans for Revitalization

#### a. Target Area and Brownfields

##### i. Background and Description of Target Area

Broome County is located in the Southern Tier region of New York State, and is comprised of multiple post-industrial riverfront communities that are situated up and down the Susquehanna and Chenango Rivers and dotted throughout the fluvio-glacial valleys and hills that characterize the county. The City of Binghamton, located at the confluence of the Chenango and Susquehanna Rivers, is the economic hub of Broome County. Population and economic centers outlying Binghamton include the Village of Johnson City, the Town of Union, and the Village of Endicott, which are all members of the Broome County Brownfield Coalition (BCBC). These communities, which all border the Susquehanna River are reckoning with challenges that afflict many communities in Upstate New York and the larger “Rust Belt” region including loss of manufacturing and service jobs, corporate re-location, environmental contamination, and the resulting abandonment and blight of once productive property – the essence of a Brownfield. In addition to this economic malaise, Broome County also deals with damaging flooding from its rivers and tributaries on a nearly annual basis, which compounds the brownfield condition of certain properties and neighborhoods, and fuels the negative perception of feasible redevelopment.

**Target Area:** The area targeted for environmental assessment and eligible redevelopment planning activities by the BCBC includes all of Broome County, New York. Within Broome County, efforts will be focused in the Village of Endicott, Village of Johnson City, and the Town of Union due the density of brownfields and historical industrial development in these areas, and their participation in the BCBC. In addition, three specific geographies within the Target Area that were previously identified by Broome County as important redevelopment zones include the Endicott Innovation District (iDistrict); the Johnson City iDistrict; Endicott-Johnson Industrial Spine Brownfield Opportunity Area (E-J BOA); and two Federal Opportunity Zones (Census Tracts 135 and 139). These geographies will be viewed as hubs for brownfield redevelopment and economic activity when the BCBC prioritizes sites and plans for environmental assessment and redevelopment during the lifespan of the grant. Many of the Priority Sites identified in this application are located in or directly adjacent to these areas of Broome County.

##### ii. Description of the Priority Brownfield Sites

Due to the densely developed industrial and commercial cores that historically operated in the Target Area, coupled with the steady decline of population and commercial/industrial occupancy, the brownfield sites within the Target Area are numerous. Many of the sites are vacant, and the environmental hazards have yet to be identified. In order to understand the scope of this issue, the BCBC intends to create a focused brownfield inventory of previously unidentified sites in the Target Area, and will develop site selection criteria based on redevelopment feasibility and community support. This focused inventory will narrow in on the BCBC partner communities, and will update brownfield inventory work that was completed by the Broome County Environmental Management Council over 10 years ago. In addition, the BCBC has identified Priority Brownfield Sites in the Target Area at which they intend to conduct environmental site assessments (ESAs) and ideally, eligible redevelopment planning activities to actively pursue redevelopment. “A-Priority” Brownfield Sites, listed below, are of special importance to the community and on-going redevelopment plans established in Broome County. As such, an expanded site profile is presented. “B-Priority” Brownfield Sites, also listed below, have immense redevelopment potential, but are of lower priority.

**(A) Priority Brownfield Site: *Former Endicott Plaza***

**Location:** 219 Vestal Avenue; 225 Harrison Avenue, Endicott, NY

**Land Ownership:** Six Parcels/Privatey Owned

**Total Acreage:** ± 20.8 acres

**Description:** This site is a cluster of two adjacent shopping plazas that is bisected by Harrison Avenue. The western portion consists of two parcels that are occupied by a vacant K-Mart store and approximately 12.5 acres of deteriorated asphalt paving. The eastern portion consists of four parcels that are occupied by a single-story commercial building and asphalt paving. The site is located between Vestal Avenue and Cleveland Avenue, with commercial and vacant commercial properties adjoining to the south and west, and residential properties adjoining to the north and east. The site is partially in the Endicott iDistrict, and partially within a Federal Opportunity Zone (Census Tract 135).

**Historical Land Use:** According to historical aerial photographs, the K-Mart shopping plaza and the shopping plaza to the east of Harrison Avenue were constructed in the 1960s. Prior to the 1960s, the area of the site to the west of Harrison Avenue was reportedly an open tannery and industrial dump that was used primarily by the E-J Shoe Manufacturing Plant, and the area to the east of Harrison Avenue was used for commercial purposes. Historical maps from the 1940s depict a stream on the site extending southerly to the Susquehanna River.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from tannery waste and other industrial wastes; contaminated fill/urban fill; hazardous building materials.

**Hydrography:** The site is located within the 100-year floodplain, as per preliminary FEMA FIRMs, and within the 500-year flood plain as per existing FEMA FIRMs.

**Community Priority:** The history of the site as an industrial dump is well-known and has been anecdotally described by the older generation of residents. The vacancy of approximately 20 acres in Endicott creates a development gap, and contributes to blight in Endicott's urban village center. This site is surrounded by an underserved neighborhood, populated by people who have the most to gain from redeveloping this site, and removing the blight and potential contaminant exposure pathways. The redevelopment of this site has been complicated by the unknown or anticipated environmental conditions that need to be addressed.

**(A) Priority Brownfield Site: *North Street Properties***

**Location:** North Street (between McKinley Avenue and Hayes Avenue), Endicott, NY

**Ownership:** Four Parcels/Privatey Owned

**Total Acreage:** ± 20.41 acres

**Description:** This site consists of four adjacent vacant parcels on both the north and south sides of North Street. The parcels north of North Street were former industrial uses – one of which was used by IBM, and the other was a forging operation. The former IBM parcel is occupied by vacant industrial buildings and infrastructure, while the former forging site is vacant land. The parcels to the south of North Street consist of asphalt paved parking lots. The site, which is bisected by North Street, is adjoined to the north, south, and west by industrial and heavy commercial properties, and to the south by residential properties. The Town of Union, which is another BCBC partner, borders the site to the east. Combined, the four parcels represent an infill and/or adaptive reuse opportunity along North Street, which is proving to be a locus of technology and manufacturing investment in Broome County. The site is within the Endicott iDistrict, and Federal Opportunity Zone (Census Tract 135).

**Historical Land Use:** The parcels to the north of North Street were historically occupied by IBM and by Endicott Forging dating back to at least 1955, both of which were heavy industrial uses that resulted in known releases of hazardous substances to the environment. The parcels to the south of North Street were historically occupied by unknown commercial uses until the early 1990s when they became parking lots. This site was wholly within the sphere of influence created by IBM in Endicott in the post-WWII period.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from historical site and historical adjoining site uses. Historical releases of hazardous substances or petroleum products on the site or migrating to the site from an offsite source. Hazardous building materials.

**Hydrography:** No special considerations.

**Community Priority:** This site was identified in the Endicott iDistrict Revitalization Strategy as a priority redevelopment site, and is surrounded by an underserved neighborhood. This area once represented a hub of jobs and livelihood for Broome County residents, which was eventually lost, leaving vacancy, contamination,

and industrial blight in its place. What exists now is an opportunity to reuse this site to augment the gradual resurgence of technology and manufacturing business occurring in this area of Endicott. However, due to their industrial legacy, the sites need environmental assessment and feasible redevelopment strategies to jump-start the process.

**(B) Priority Brownfield Site: *Former IBM Country Club***

**Location:** 4301 Watson Boulevard, Town of Union, NY

**Ownership:** One Parcel/Privatey Owned

**Total Acreage:** ± 9.33 acres

**Description:** This site is a vacant country club building and grounds dating back to the early 1950's that was previously operated by IBM. This site presents a redevelopment or adaptive re-use opportunity in the Town of Union. This large iconic facility once served families of Broome County, and is now a vacant remnant of IBM's presence in Endicott. Redevelopment of the site has been complicated by perceived contamination.

**Hydrography:** Located in the 100-year floodplain as per existing FEMA FIRMs. Adjacent to a tributary stream to the Susquehanna River.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from historical site use and historical adjoining site uses (petroleum bulk storage). Historical releases of hazardous substances or petroleum products on the site or migrating to the site from an offsite source. Hazardous building materials.

**(B) Priority Brownfield Site: *Former Forno's Continental Motors***

**Location:** 711 E. Main Street, Endicott, NY

**Ownership:** Three Parcels/Privatey Owned

**Total Acreage:** ± 1.25 acres

**Description:** This site is a large, vacant auto service and dealership property dating back to the early 1950s. The property occupies an important commercial corner within a Federal Opportunity Zone (Census Tract 135), and adjoining the Endicott iDistrict. The site offers an infill redevelopment opportunity in close proximity to the former Endicott Plaza.

**Hydrography:** The site is located within the 100-year floodplain, as per preliminary FEMA FIRMs, and within the 500-year flood plain as per existing FEMA FIRMs.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from auto-related site features and operations such as petroleum underground storage tanks (USTs); floor drains and other drainage; waste storage and disposal; and underground hydraulic lifts. Hazardous building materials.

**(B) Priority Brownfield Site: *99 Lester Avenue***

**Location:** 99 Lester Avenue, Johnson City, NY

**Ownership:** One Parcel/Privatey Owned

**Total Acreage:** ± 7.38 acres

**Description:** This site is a vacant parcel that was historically occupied by industrial uses including the E-J Shoe Company, auto-related uses, and warehousing. This is a known contaminated site that offers an infill redevelopment opportunity on Lester Avenue. The site is located in the E-J Industrial Spine BOA, the Johnson City iDistrict, and adjoins a Federal Opportunity Zone (Census Tract 139).

**Hydrography:** Adjacent to Little Choconut Creek.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from historical industrial and manufacturing uses.

**(B) Priority Brownfield Site: *Airport Parcels***

**Location:** Airport Road/Knapp Road, Town of Maine

**Ownership:** Two Parcels/Publicly Owned

**Total Acreage:** ± 129 acres

**Description:** These properties are large vacant parcels that adjoin the Greater Binghamton Airport in northern Broome County, and offer commercial or light industrial development opportunities outside of the urban centers of the county.

**Hydrography:** Adjacent to Little Choconut Creek.

**Potential Environmental Issues:** Groundwater and soil contamination from the use and storage of fire-fighting foam that potentially contains per and polyfluoroalkyl substances at the adjoining Greater Binghamton Airport. Unknown fill material/urban fill sites.

**(B) Priority Brownfield Site: 19 Avenue B**

**Location:** 19 Avenue B, Johnson City, NY

**Ownership:** One Parcel/Publicly Owned

**Total Acreage:** ± 0.58 acres

**Description:** This site consists of a vacant industrial building that was historically occupied by industrial uses including the E-J Shoe Company and others. This site offers an infill redevelopment opportunity in the heart of Johnson City. The site is located in the E-J Industrial Spine BOA, the Johnson City iDistrict, a Federal Opportunity Zone (Census Tract 139).

**Hydrography:** No special considerations.

**Potential Environmental Issues:** Groundwater, soil, and soil vapor contamination from historical industrial and manufacturing uses related to the E-J Shoe Company, which historically occupied this property and many adjoining properties. Hazardous building materials.

**b. Revitalization of the Target Area**

**i. Redevelopment Strategy and Alignment with Revitalization Plans**

The redevelopment strategy for the Priority Brownfield Sites (except for the Airport Parcels) is characterized as infill development within core urban, underserved areas of Broome County. Several of the sites present an opportunity for adaptive reuse of buildings based on the large lot coverage and physical condition of the buildings. A mix of uses will be encouraged at the urban sites that will be based on market conditions, financial feasibility, and local land use regulations. Eligible redevelopment planning tasks will spearhead this re-use effort. The Airport Parcels development sites present an opportunity for maximizing commercial or light industrial development locations in Broome County on publicly-owned land at which the environmental conditions are unknown, and may have been passed over by developers due to that uncertainty. Development of the Airport Parcels has the potential to create and sustain jobs in the long-term. Brownfield redevelopment that results in mixed-use, urban infill development in blighted areas, as well as commercial and job development aligns with revitalizations plans in Broome County including: Southern Tier URI: Build the Grater Binghamton Innovation Ecosystem (2015); Endicott iDistrict Downtown Revitalization Plan and Design Guidelines (2018); Johnson City iDistrict/BOA Plan and Downtown Design Guidelines (2018); E-J Industrial Spine BOA Nomination Study (2009); and the Broome County Comprehensive Plan (2013).

**ii. Outcomes and Benefits of Redevelopment Strategies**

Redevelopment of the Priority Brownfield Sites will build on former brownfield success stories in Broome County, and other pending and latent development pressure that has been building for nearly a decade. The strategy for the Priority Brownfield Sites is to actively plan for and market redevelopment by understanding environmental site conditions, market and real-estate conditions, and community perspective. Due to the relative proximity of these sites to each other and to other existing assets, their size and magnitude in the built environment, and their historical prominence, redevelopment of these brownfield sites will stimulate other nearby development and investment by the private and public sector. Once a certain concept is proved in the marketplace, developers are more willing to invest capital. In addition, since many of the Priority Brownfield Sites are located in economically disadvantaged areas, including two Federal Opportunity Zones, engaging the public and assessing and redeveloping the sites will directly benefit the neighborhoods where residents currently live amid the industrial blight.

**c. Strategy for Leveraging Resources**

**i. Resources Needed for Site Reuse**

All BCBC partners are eligible for additional grant funding from other resources to advance additional project redevelopment steps beyond the scope of this brownfields grant. The BCBC partners also have the ability to use



the data collected and presented from environmental assessments and redevelopment planning to leverage private property owners to either take the next steps for clean-up or redevelopment, or to transfer the property to a capable developer. For example, a Phase II ESA can be used by a private or public property owner to apply to the New York State Brownfield Clean-Up Program (BCP) and leverage state incentives for clean-up during site redevelopment. Potential key funding sources that will be sought for use in assessment, remediation, and/or revitalization strategy include additional EPA Brownfield Grants; New York State incentives including RestoreNY funds; Consolidated Funding Application (CFA) grants; New York State BCP; and private investment.

ii. Use of Existing Infrastructure

Based on the locations of the Priority Brownfield Sites, and their quality as infill redevelopment projects, existing infrastructure – including public sewer and water, natural gas, electricity and cable/fiber, pedestrian connections, and roadways – will be highly utilized. Several Priority Brownfield Sites present an opportunity for adaptive reuse of existing buildings. The Airport Parcels sites may need more infrastructure investments than the other sites due to their largely undeveloped character. All Priority Brownfield sites have excellent access to major highways, including Interstate 86.

**2. Community Need and Community Engagement**

**a. Community Need**

i. The Community's Need for Funding

Due to many vacant, underutilized, and devalued properties in the BCBC municipalities, funding assistance for brownfield assessment and redevelopment planning is not in the budgets of the BCBC partners. Many owners will not develop or sell properties without assistance due to (a) depressed market conditions and (b) perceived contamination that may come with continuing obligations. A Brownfield Assessment Grant will serve the coalition partners and their communities by providing environmental assessment and redevelopment planning assistance to sites that may be privately or publicly owned, and will assuage uncertainty about environmental conditions, characterize environmental contamination, and assess the market conditions and feasibility for different development concepts. These activities have the potential to jumpstart the conversation about redevelopment, and meld a partnership between local governments, economic developers, and private developers and property owners. The BCBC partner communities work together on many aspects of regional policy and public life, and this grant would be a continuation of that cooperation.

ii. Threats to Sensitive Populations

1. Health or Welfare of Sensitive Populations

Broome County's communities are relatively compact due to the mountain and valley topography. As a result of these development patterns, many residential areas are in very close proximity to former industrial properties and other brownfield sites putting sensitive populations at risk. Minority populations are especially disadvantaged in Broome County with lower incomes and higher rates of poverty. Additionally, the Broome County Health Assessment 2016-2018 Update reports that the percentage of premature deaths for non-Hispanic Blacks/African Americans was more than double that for non-Hispanic Whites. The rates of hospitalization from Asthma, which has been linked to environmental factors, for Blacks/African Americans was over twice the rate for non-Hispanic Whites (20.8 vs. 10.2 hospitalizations per 10,000 population). Among children, the disparity was even greater (31.6 per 10,000 for non-Hispanic Blacks/African Americans compared to 13.4 per 10,000 for non-Hispanic White children). Many minority populations are concentrated in areas with identified brownfields where property values are lower, putting this population at risk from exposure to contaminants. This grant will facilitate the assessment, cleanup, and redevelopment of brownfield properties, which will not only identify and remove physical contamination but also provide increased economic opportunities through neighborhood revitalization that will create additional positive health outcomes.

2. Greater Than Normal Incidence of Disease and Adverse Health Conditions

Residents of Broome County disproportionately suffer from greater-than-normal incidence of diseases and conditions that are typically associated with exposure to hazardous substances, pollutants, contaminants, or petroleum typically found within brownfield sites. According to the Broome County Community Health Assessment 2016-2018 Update, cancer is the leading cause of premature death in the County with a rate of 419 premature deaths per 100,000 population. That rate is over 52% greater than the New York State rate of 275 per 100,000. In addition to the higher rates of cancer found in the County, a significant number of children born in Broome County are born with birth defects. According to New York State Department of Health statistics for 2010 -2012, many of the specific birth defects of these children far exceed the overall state rate, indicating that environmental factors may be responsible. The grant will address brownfield sites in populated areas, including sites in close proximity to residential areas and water supplies where the threat of exposure to contaminants still exists today.

3. Economically Impoverished/Disproportionately Impacted Populations

Broome County has a relatively significant share of its population living in poverty. According to the U.S. Census Bureau, approximately 17.5% of the population is impoverished compared to an overall state poverty rate of 14.1% and a U.S. rate of 12.3%. A 2017 Census Bureau survey also found that the County has a disproportionately high number of children living in poverty. Broome County had a childhood poverty rate of 20.2%, ranking it third worst in the state. Similarly, income levels in the County are below state and national levels. The high rates of poverty in the County have often been linked with the decline of industrial activity, including former IBM operations. Many of those former industrial sites have gone from being the economic lifeblood of the County's communities to contaminated and blighted sites, which have led to employment loss, neighborhood decay, declining property values, and negative health impacts. These adverse impacts will be directly improved by this grant, which will help clean up these former industrial sites and put them back into productive use, which will help revitalize neighborhoods, catalyze economic development, and create jobs for local residents.

**b. Community Engagement**

i. Community Involvement – List of Project Partners

Community Partner	Specific Role in the Project
Broome County IDA	Coalition Lead. Project and grant management.
Town of Union Village of Johnson City Village of Endicott	Coalition Partners. Technical assistance; project coordination; community outreach.
Broome County/Environmental Management Council	Technical assistance; project research and data acquisition; brownfields assistance.
Property Owners	5 of 7 Priority Brownfield Sites are privately owned. Private owners will be strategic project partners from the start, and will provide property access, property information, and assist with redevelopment planning.
Project Developers	Developers will be engaged during redevelopment planning tasks to gauge interest in certain brownfield sites, as well as assist with feasibility analyses.
Business Owners/Stakeholders	Local business owners and other stakeholders will be engaged throughout the redevelopment planning tasks to ensure strong, feasible scenarios are developed based on local conditions and headwinds.
General Public	The general public will be engaged throughout the entire process for engagement and educational purposes. Their role will evolve during redevelopment planning to become community designers as their input is considered in redevelopment scenarios.
NYS DEC	Regulatory guidance; site management; environmental data acquisition.

ii. Incorporating Community Input

Public engagement will occur at certain task milestones, to include the following:

**Project Kick-Off** – A public meeting will be held to introduce the project, and the Priority Brownfield Sites, and to take comments. The project team will solicit input on other potential brownfield sites that may need to be assessed or areas of concern.

**Redevelopment Roundtables** – The project team will host design charrettes and public open houses at appropriate times around Broome County to solicit input on potential redevelopment and display redevelopment concepts. This approach leads to valuable input and public acceptance of a strategy or concept. Charrettes typically occur early in the design development, and open houses typically occur toward the end of the process.

**Scheduled Update** – The project team will present updates at previously scheduled public meetings at a regular, pre-determined intervals to summarize results and update the public on progress. The final scheduled update will present overall findings and next steps.

**Email List** – Subscribers to an e-mail list will receive a regular newsletter updating progress.

**Social Media** – Several platforms will be used to advertise public events and project updates.

The BCBC partners and their communities will be effectively engaged and informed about the project by the methods listed above. Events will occur in multiple locations throughout the BCBC communities, rather than in one central location. All BCBC partners will conduct outreach.

3. Task Descriptions, Cost Estimates, and Measuring Progress

a. Description of Tasks and Activities

Task I: Administrative Costs – The Broome County IDA (BCIDA) (Coalition Lead) will use less than 2% of the grant award amount on eligible, direct administrative costs incurred to comply with the provisions of the *Uniform Administrative Requirements for Cost Principles and Audit Requirements for Federal Awards*, other than those identified as programmatic. Costs will be in the form of salaries of BCIDA staff. These costs will occur through the 3-year grant period. The BCBC partners also offer leveraged in-kind services to successfully complete this task beyond what is allocated in the budget.

Task II: Program Management – The BCBC will use 7% of the total grant award on eligible, direct programmatic costs that are integral to achieving the purpose of the cooperative agreement such as expenses for inventorying, characterizing, assessing, and conducting planning related to brownfield sites; performance and financial reporting; securing site access; and other eligible costs. Costs will be in the form of salaries of the BCBC partners, and as contractual costs for professional assistance with inventorying and project planning and implementation. The majority of these funds will be expended in the first year of the grant period, with smaller amounts being used later in the grant period to secure site access and oversee the contracted services. The BCBC partners also offer leveraged in-kind services to successfully complete this task beyond what is allocated in the budget.

Task III: Phase I ESAs – At least five, and up to eight Phase I ESAs will be conducted by a contracted qualified environmental professional on Priority Brownfield Sites and/or other sites within in the Target Area identified by the BCBC. The Phase I ESAs will be conducted in accordance with EPA's All-Appropriate Inquiries Final Rule and ASTM Standard E1527-13, and will identify recognized environmental conditions (RECs) in relation to the site. In general, the Phase I ESAs will be conducted before the Phase II ESAs; however, Phase I ESAs may be conducted through the 3-year grant period.

Task IV: Phase II ESAs – A minimum of five Phase II ESAs will be conducted on Priority Brownfield Sites and/or other sites within in the Target Area identified by the BCBC. The Phase II ESAs will investigate the recognized environmental conditions (RECs) identified in the Phase I ESAs, and therefore the specific scope, means, and methods of the Phase II ESA are currently undefined. The Phase II ESAs will be conducted by a qualified environmental professional and/or NYS Professional Engineer or Geologist in accordance with ASTM Standard E1903-11. In general, the Phase II ESAs will be conducted after the Phase I ESAs, but may also be conducted after or concurrently with specific Community Outreach and eligible Redevelopment Planning Tasks.

A Phase II ESA is a due diligence tool used to investigate RECs, but can also be used to assess feasibility of certain redevelopment scenarios, scope and inform potential clean-up planning, and provide critical data on a site that may be used for redevelopment and potentially site disposition purposes.

**Task V: Community Outreach** – Extensive community outreach will be conducted including public meetings, stakeholder interviews, design charrettes, and public open houses. Community outreach will occur throughout the grant period, at critical milestones that will be determined by the BCBC (including project Kick-Off), and will be designed to occur in concert with the environmental assessment and eligible redevelopment planning tasks in order to coordinate the most amount of information at once, and convey the progress of the BCBC. The BCBC partners also offer leveraged in-kind services to successfully complete this task beyond what is allocated in the budget.

**Task VI: Redevelopment Planning** – Redevelopment Planning tasks include eligible planning activities to initiate brownfield revitalization and to prepare the site for redevelopment. The eligible planning activities relevant to the BCBC include site reuse assessment and vision, land use assessment, market study, infrastructure evaluation, brownfield area or site revitalization master plan, evaluation of market viability, and clean-up planning. These tasks will occur on Priority Brownfield Sites within the Target Area. It is most likely that these tasks will occur on the larger brownfield sites that contain multiple parcels, or on sites that are in close proximity to each other – in effect creating one or two area-wide revitalization plans using eligible planning activities and environmental assessment data as inputs to the plans. The BCBC feels that this task is critical to successful property and area redevelopment, as it has the strong ability to attract developers and investors who value an economically feasible revitalization plan, and who prioritize sites with a preferred and publicly accepted reuse concept vetted through community engagement. Redevelopment Planning will occur throughout the grant period, and will be informed by the results of the Phase I/Phase II ESAs at the sites. Community Engagement will occur concurrently with Redevelopment Planning to solicit public and stakeholder input on redevelopment concepts and feasibility. In fact, some of the eligible Redevelopment Planning activities may incorporate elements of Community Engagement such as stakeholder interviews and design charrettes.

**b. Cost Estimates and Outputs (100% Hazardous Substance Funding)**

Budget Categories	Project Tasks						Category TOTAL
	I. Admin. Costs	II. Program Mgmt.	III. Phase I ESAs	IV. Phase II ESAs	V. Comm. Outreach	VI. Redev. Planning	
Personnel	\$10,000	\$30,000					\$40,000
Fringe Benefits							
Travel							
Equipment							
Supplies							
Contractual		\$10,000	\$28,000	\$360,000	\$62,000	\$100,000	\$560,000
Other							
Direct Costs	\$10,000	\$40,000	\$28,000	\$360,000	\$62,000	\$100,000	\$600,000
Indirect Costs							
<b>Total Budget</b>	<b>\$10,000</b>	<b>\$40,000</b>	<b>\$28,000</b>	<b>\$360,000</b>	<b>\$62,000</b>	<b>\$100,000</b>	<b>\$600,000</b>

**Task I – Administrative Costs**

- *Personnel Unit Costs:* 200 hours at an average rate of \$50/hour. Approximately 5 hours/month.
- *Specific Outputs:* NONE

**Task II – Program Management**

- *Personnel Unit Costs:* 600 hours at an average rate of \$50/hour. Approximately 16 hours/month.
- *Contractual Unit Costs:* 118 hours at an average rate of \$85/hour assist with project planning and implementation, and the Focused Brownfield Inventory and Site Selection Criteria.

- *Specific Outputs:* Focused Brownfield Site Inventory and Site Selection Criteria

#### Task III – Phase I ESAs

- *Contractual Unit Costs:* Up to eight Phase I ESAs at an average cost of \$3,500.
- *Specific Outputs:* At least five, and up to eight Phase I ESAs.

#### Task IV – Phase II ESAs

- *Contractual Unit Costs:* Five Phase II ESAs at an average cost of \$72,000.
- *Specific Outputs:* Five Phase II ESAs

#### Task V – Community Outreach

- *Contractual Unit Costs:* 652 hours at an average rate of \$95/hour. Approximately 18 hours/month.
- *Specific Outputs:* Organizing and running public meetings, design charrettes, public open houses. Producing and maintaining outreach materials. Number/type of meetings to be determined based on inventory and project planning.

#### Task IV – Redevelopment Planning

- *Contractual Unit Costs:* \$50,000 per site for two sites or development areas.
- *Specific Outputs:* Production of up to two community-vetted, economically feasible conceptual revitalization plans for individual sites or development areas. Developed by the eligible planning, design, and economic analyses described Section 3.a. of this application.

### c. Measuring Environmental Results

The BCIDA, as the coalition lead, will be the project manager, with the assistance of the other BCBC partners. Due to several overlapping and concurrent tasks, the BCIDA will track the overall project using a master Gantt Schedule and budget spreadsheet. Definitive deadlines for all the outputs will be defined in contracted services agreements, and personnel costs incurred by the BCBC will be tracked using timesheets. Quarterly reporting to the EPA will occur to provide updates on overall progress, budget, and output quality. ACRES will be used, as appropriate.

## 4. Programmatic Capability and Past Performance

### a. Programmatic Capability

#### i. Organizational Structure

The BCIDA will be responsible for the timely and successful expenditure of funds, and completion of all technical, administrative and financial requirements of the project and grant. The BCIDA has a professional and capable staff to manage this grant and others. The structure of the organization is team-based – meaning members of the project team all may have different areas of expertise that combine to form a significant knowledge base and skill-set to implement project tasks. The BCIDA also has excellent relationships with municipal partners and the private sector, who will undoubtedly be utilized for assistance with the successful completion of the project. All of these parties – in house staff, municipal partners, and private sector – comprise the project team. All business associated with the project will be managed by the Project Director, Ms. Stacey Duncan. Ms. Duncan is the Deputy Director of Community & Economic Development at BCIDA, and has years of executive economic development experience in Broome County, specifically with property redevelopment and disposition. Other key in-house staff at the BCIDA includes Ms. Carly Campon, who is the Operations Manager and is responsible for day-to-day financial operations and regulatory reporting; Ms. Natalie Abbadessa, Business Development Coordinator, and Mr. Kevin McLaughlin, Executive Director.

#### *Coalition Governance*

The BCBC will be led by the BCIDA. Other BCBC partners will have an advisory role in the project decision making. The BCBC partners have successfully worked together on recent projects including developing the Greater Binghamton Fund, determining the boundaries for the iDistricts, the E-J BOA Revitalization Plan, and other smaller projects. The four-member coalition will meet regularly and come to a consensus regarding expenditure of funds. If funds are awarded, a governance structure will be incorporated into the active Memorandum of Agreement that was established to create the BCBC.

ii. Acquiring Additional Resources

The BCIDA has the capacity to engage with consultants, contractors, and other experts to successfully complete the project. In many of their larger, grant-funded projects, the BCIDA works closely with consultants to help complete the project within the allotted budget and schedule. The BCIDA and the BCBC partners have productive relationships with consultants and other professionals in State and Federal agencies and local governments that can be relied upon should the need arise. All procurement will be conducted in accordance with the requirements of the grant.

**b. Past Performance and Accomplishments**

i. Has Not Received an EPA Brownfields Grant but has Received Other Assistance Agreements

**1. Purpose and Accomplishments**

- Federal Office of Economic Adjustment; Amount: \$206,140; Purpose: Feasibility study for the potential sale and reuse of former BAE Systems facility (Village of Johnson City).  
Outputs/Outcomes: Brownfield Site Revitalization Plan and Developer RFP. Site redevelopment.
- Federal Aviation Administration; Amount: \$95,000; Purpose: Continue research at the Greater Binghamton Airport (Town of Maine, Broome County) to measure the feasibility and effectiveness of the geothermal snowmelt system and the terminal cooling system.  
Outputs/Outcomes: Engineering feasibility study and improved airport conditions and service.
- NYS Department of Transportation; Amount: \$354,588; Purpose: Construction of rail spurs and any related appurtenances at National Pipe & Plastics Company (Village of Endicott)  
Outputs/Outcomes: Increased freight rail service, industrial property improvement and redevelopment, manufacturing business retention and attraction.

**2. Compliance with Grant Requirements**

The BCIDA adhered to the workplans, schedules, and terms and conditions under the above listed (and other) assistance agreements. Expected outputs and required reporting were completed in a timely manner. In addition, these grant investments have all led to either additional resources leveraged and/or private sector investment. Overall, the BCIDA has a sterling reputation for administering grant funds and timely acceptable reporting, as well as the skill-set and experience to leverage additional resources and private investment from the grant award, leading to economic development and improvement in Broome County.

## **THRESHOLD CRITERIA ATTACHMENT**

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### **1. Applicant Eligibility**

#### ***Broome County Brownfield Coalition (BCBC)***

Coalition Lead: Broome County Industrial Development Agency (BCIDA) – **ELIGIBLE FOR FUNDING**

The BCIDA is a public benefit corporation chartered by the State of New York overseen by a nine-member board appointed by the Broome County Legislature.

Enabling Legislation (Attached): Industrial development agencies (“IDAs”) are formed under Article 18-A of New York State General Municipal Law, as public benefit corporations. IDAs were created to actively promote, encourage, attract and develop job and recreational opportunities and economically-sound commerce and industry in cities, towns, villages and counties throughout New York State (the “State”). IDAs are empowered to provide financial assistance to private entities through tax incentives in order to promote the economic welfare, prosperity and recreational opportunities for residents of a municipality.

Coalition Partner: Town of Union, New York – **ELIGIBLE FOR FUNDING**

Coalition Partner: Village of Endicott, New York – **ELIGIBLE FOR FUNDING**

Coalition Partner: Village of Johnson City, New York – **ELIGIBLE FOR FUNDING**

### **2. Community Involvement**

The BCBC intends to conduct extensive community engagement by conducting the tasks listed below. Community engagement will occur during all steps of the project; however, a focus of the effort will occur during Phase II ESAs and Redevelopment Planning tasks, which is a time when critical data and design concepts are presented, and when public input would be the most useful.

- Public Meeting
  - Typically consists of a traditional presentation and question/answer session.
- Design Charrette
  - Typically is held as a workshop format, and is intended for community members and stakeholders to collaborate and participate in the site design process. This process is hands-on and visual and graphically oriented. Design Charrettes are a method of public engagement that will likely occur in conjunction with eligible brownfield site Redevelopment Planning activities such as the site reuse assessment and vision, and revitalization master plan.
- Public Open House
  - Typically is a flexible drop-in format consisting of presentation boards, graphics, and maps, and interactive input and comment stations where participants can work through the information and provide comment at their own pace.
- Scheduled Update
  - This is a regularly scheduled update that will be presented at a previously scheduled public meeting such as a Town Board meeting or a County Board meeting.
- Stakeholder Interviews
  - Consists of focused, closed interviews with key project stakeholders.
- Email List
  - Consists of a newsletter or flyer that is sent to an e-mail list at regularly scheduled intervals.
- Social Media Engagement
  - Will be used primarily to advertise other outreach events, and link to other sources of information.

The BCBC partners and their communities will be effectively engaged and informed about the project by the methods listed above. Events will occur in multiple locations throughout the BCBC communities, rather than in one central location. All BCBC partners will conduct outreach.

**3. Expenditure of Assessment Grant Funds**

The Broome County Industrial Development Agency “Applicant” does not have an active EPA Brownfields Assessment Grant. In addition, the BCBC partners (Town of Union, Village of Johnson City, Village of Endicott) do not have active EPA Brownfields Assessment Grants.



ATTACHMENT

Broome County Brownfield Coalition  
Active Memorandum of Agreement

## **2019 BROWNFIELDS ASSESSMENT COALITION GRANT APPLICATION**

### **MEMORANDUM OF AGREEMENT**

#### **AMONG**

**BROOME COUNTY INDUSTRIAL DEVELOPMENT AGENCY,**

**TOWN OF UNION, NEW YORK,**

**VILLAGE OF JOHNSON CITY, NEW YORK**

**VILLAGE OF ENDICOTT, NEW YORK**

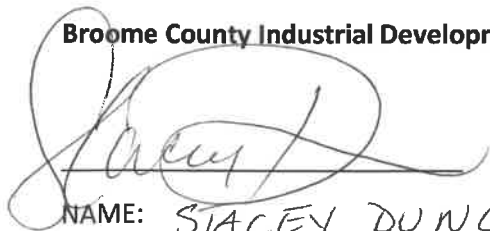
- 1.** The United States Environmental Protection Agency (USEPA) recently released solicitations for grant applications to fund environmental assessment and redevelopment planning activities at properties defined by the USEPA as “brownfields.”
- 2.** One of the 2019 grant awards is the Assessment Coalition Grant, which is a Community-Wide Assessment Grant that awards a coalition of three or more “eligible entities” up to \$600,000 to perform environmental site assessments (ESAs) and eligible redevelopment planning activities on at least five (5) brownfield sites within a defined geography under the jurisdiction of the coalition members.
- 3.** Activities funded through the Brownfield Assessment Coalition Grant may include inventory preparation, site selection criteria development, Phase I and Phase II ESAs, redevelopment planning (including cleanup planning) relating to brownfield sites, community outreach materials and implementation, and other eligible activities. The Coalition may retain consultants and contractors under 2 CFR § 200.317-326 to undertake various eligible activities.
- 4.** The signatories to this Memorandum of Agreement (MOA) are considered “eligible entities” to apply for Brownfield Assessment Coalition funding. The Town of Union, the Village of Johnson City, and the Village of Endicott are all “General Purpose Units of Local Government” under 2 CFR § 200.64. The Broome County Industrial Development Agency (BCIDA) is a public benefit corporation, formed under Article 18-A of New York State General Municipal Law, whose mission is to advance economic development in Broome County, New York.
- 5.** The BCIDA, in consultation with the other Coalition Partners, will work to develop a site selection process based on agreed upon factors that will ensure that a minimum of five (5) eligible sites are assessed over the life of the grant. The sites will be either privately or publicly owned, and located within the town of Union, New York, the village of Johnson City, New York, the village of Endicott, New York, and/or other agreed upon areas within Broome County, New York, which are all under the purview of the BCIDA.
- 6.** The signatories to this MOA intend to apply, as a coalition, for a 2019 Brownfield Assessment Coalition Grant. The BCIDA will serve as the “Coalition Lead” and assume all organizational and communicative responsibilities required of the Coalition Lead during the grant funding application process. The BCIDA will be responsible for submitting the grant application to the USEPA by the deadline (January 31, 2019). Other specific roles and responsibilities of the Coalition Lead and the Coalition Partners will be defined in another grant-specific MOA should grant funding be awarded.

Agreed:

**SIGNATORIES:**

**SIGNATORIES:**

**Broome County Industrial Development Agency**



Date: 1/30/19

NAME: STACEY DUNCAN  
TITLE: DEPUTY DIRECTOR  
ADDRESS: FIVE SOUTH COLLEGE DRIVE, SUITE 201  
PHONE: 607 584. 9000  
EMAIL: smd@theagency-ny.com

**Town of Union, New York**

\_\_\_\_\_  
Date: \_\_\_\_\_  
NAME:  
TITLE:  
ADDRESS:  
PHONE:  
EMAIL:

**Village of Johnson City, New York**

\_\_\_\_\_  
Date: \_\_\_\_\_  
NAME:  
TITLE:  
ADDRESS:  
PHONE:  
EMAIL:

**Village of Endicott, New York**

\_\_\_\_\_  
Date: \_\_\_\_\_  
NAME:  
TITLE:  
ADDRESS:  
PHONE:  
EMAIL:

**Broome County Industrial Development Agency**

\_\_\_\_\_

Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**Town of Union, New York**



Date: 1/11/2018

NAME: Richard A. Materese

TITLE: Town Of Union Supervisor

ADDRESS: 3111 E. Main Street - Endwell, New York 13760

PHONE: (607) 786-2995

EMAIL: rmaterese@townofunion.com

**Village of Johnson City, New York**

\_\_\_\_\_

Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**Village of Endicott, New York**

\_\_\_\_\_

Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**SIGNATORIES:**

**Broome County Industrial Development Agency**

\_\_\_\_\_  
Date: \_\_\_\_\_

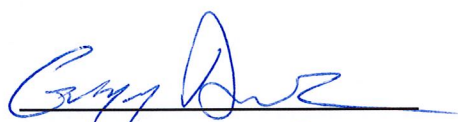
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**Town of Union, New York**

\_\_\_\_\_  
Date: \_\_\_\_\_

NAME:  
TITLE:  
ADDRESS:  
PHONE:  
EMAIL:

**Village of Johnson City, New York**

  
Date: 1/16/19

NAME: Gregory Deemie  
TITLE: Mayor  
ADDRESS: 243 Main St., Johnson City,  
PHONE: (607) 788-7861  
EMAIL: jcmayor@villageofjc.com

**Village of Endicott, New York**

\_\_\_\_\_  
Date: \_\_\_\_\_

NAME:  
TITLE:  
ADDRESS:  
PHONE:  
EMAIL:

**Broome County Industrial Development Agency**

\_\_\_\_\_

Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**Town of Union, New York**

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Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**Village of Johnson City, New York**

\_\_\_\_\_

Date: \_\_\_\_\_

NAME:

TITLE:

ADDRESS:

PHONE:

EMAIL:

**Village of Endicott, New York**

\_\_\_\_\_ *John R. Bertoni*

Date: 1/10/19

NAME: *JOHN R. BERTONI*

TITLE: *Mayor*

ADDRESS: *1009 E. Main St*

PHONE: *607 757 2421*

EMAIL: *JOE Mayor@EndicottNY.com*

ATTACHMENT

Broome County Industrial Development Agency  
NYS Article 18-A Enabling Legislation

# General Municipal Law

## ARTICLE 18-A

### INDUSTRIAL DEVELOPMENT

#### TITLE 1

#### AGENCIES, ORGANIZATION AND POWERS (Sections 850-888)

**Section 850. Short title.** This chapter may be cited as the "New York State Industrial Development Agency Act."

**§ 852. Policy and purposes of article.** It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation, economically sound commerce and industry and economically sound projects identified and called for to implement a state heritage area management plan as provided in title G of the parks, recreation and historic preservation law through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural and cultural or historic resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, recreation, horse racing facilities, railroad facilities, automobile racing facilities and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of facilities to provide recreation for the citizens of the state and to attract tourists from other states.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

**§ 854. Definitions.** As used in this act, unless the context otherwise requires:

(1) "Agency"--shall mean an Industrial Development Agency created pursuant to this act.

(2) "Bonds"--shall mean the bonds, notes, interim certificates and other obligations issued by the agency pursuant to this act.

(3) "Municipality"--shall mean any county, city, village, town or Indian reservation in the state.

(4) "Project" - shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other



facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes or other economically sound purposes identified and called for to implement a state designated urban cultural park management plan as provided in title G of the parks, recreation and historic preservation law and which may include or mean an industrial pollution control facility, a recreation facility, educational or cultural facility, a horse racing facility, a railroad facility or an automobile racing facility, provided, however, no agency shall use its funds in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located.

(5) "Governing body"--shall mean the board or body in which the general legislative powers of the municipality are vested.

(6) "Mortgage"--shall mean a mortgage or other security device.

(7) "Revenues"--shall mean all rents, revenues, fees, charges and other sources of income derived by the agency from the leasing, sale or other disposition of a project or projects.

(8) "Industrial pollution control facility"--shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, recreation and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

(9) "Recreation facility"--shall mean any facility for the use of the general public as spectators or participants in recreation activities, including but not limited to skiing, golfing, swimming, tennis, ice skating or ice hockey facilities, together with all buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of recreation facilities by the general public as participants in recreation activities, but shall not include facilities for automobile or horse racing or other similar activities.

(10) "Horse racing facility"--shall mean any facility for the use of the general public for purpose of conducting pari-mutuel wagering, licensed by the state racing and wagering board, as of January first, nineteen hundred seventy-seven, except non-profit racing associations, including buildings, structures, machinery, equipments, facilities and appurtenances thereto, the construction, reconstruction, acquisition and/or improvement of which shall have been approved by the state racing and wagering board, and which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation

of such racing facility.

(11) "Railroad facility"--shall mean, but shall not be limited to, railroad rights-of-way, beds, bridges, viaducts, tracks, switches and rolling stock and any other attendant structure, equipment, facility or property necessary or appropriate to railroading conducted in conjunction with industrial, commercial, manufacturing, recreational or warehousing operations; provided, however, that (i) no agency shall itself operate a railroad facility for freight or passenger service, but may lease or otherwise make such facility available to an operator, subject to an agreement for the maintenance and operation of such facility for freight or passenger service, provided that passenger service does not constitute the primary purpose of the railroad facility; (ii) prior to undertaking any project involving acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility, an agency shall submit its plans for the proposed project to the commissioner of transportation; the commissioner shall, within sixty days of his receipt of the proposal, submit an analysis of the financial and operational feasibility of the proposed project, along with any recommendations for modification for improving the project's viability, to the agency, the governor, the commissioner of commerce, the temporary president of the senate, the speaker of the assembly and the governing body of the municipality in which the agency is located; and (iii) no agency shall enter into any contract for the acquisition, construction, reconstruction, improvement, maintenance, equipping or furnishing of a railroad facility until fifteen days after the submission of the analysis and recommendations of the commissioner of transportation, or seventy-five days after submission of the agency's plan to the commissioner, whichever is earlier.

(12) "Educational or cultural facility"--shall mean any facility identified and called for to implement a state designated heritage area management plan as provided in title G of the parks, recreation and historic preservation law that is open to the public at large as participants in educational and cultural activities including but not limited to theaters, museums, exhibitions and festival and interpretive facilities, together with buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any such facility, including overnight accommodations and other facilities incidental thereto and facilities that may permit the use of educational or cultural facilities by the general public.

(14) "Financial assistance" - shall mean the proceeds of bonds issued by an agency, straight-leases, or exemptions from taxation claimed by a project occupant as a result of an agency taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of an agency.

(15) "Straight-lease transaction" - shall mean a transaction in which an agency takes title, possession or control (by lease, license or otherwise) to the property or equipment of a project occupant, entitling such property or equipment to be exempt from taxation according to the provisions of section eight hundred seventy-four of this article, and no financial assistance in the form of the proceeds of bonds issued by the agency is provided to the project occupant.

(16) "Affected tax jurisdiction" - shall mean any municipality or

school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of an agency involved in a project.

(17) "Payments in lieu of taxes" - shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of agency involvement.

(18) "Highly distressed area" - shall mean (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) a poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) an unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) a city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) an area which was designated an empire zone pursuant to article eighteen-B of this chapter.

(19) "Continuing care retirement community" - shall mean any facility that has been granted a certificate of authority pursuant to article forty-six or forty-six-A of the public health law and is established to provide, pursuant to continuing care retirement contracts approved pursuant to article forty-six of the public health law, or fee-for-service continuing care contracts approved pursuant to article forty-six-A of the public health law, a comprehensive, cohesive living arrangement for the elderly, and certified by the commissioner of health, that (i) has been approved for the issuance of industrial development agency bonds by the continuing care retirement community council pursuant to section forty-six hundred four-a of the public health law except that paragraphs b and g of subdivision two of section forty-six hundred four-a of the public health law shall not apply to a continuing care retirement community granted a certificate of authority pursuant to article forty-six-A of the public health law and (ii) is a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law that is (a) eligible for tax-exempt financing under section forty-six hundred four-a of the public health law and this chapter and (b) is exempt from taxation pursuant to section 501(c)(3) of the federal internal revenue code; except that "continuing care retirement community" shall not include a facility granted a certificate of authority upon application of a state or local government applicant.

(20) "Automobile racing facility" shall mean any closed-course motorsports complex and its ancillary grounds that has at least fifty thousand fixed seats for race patrons and hosts at least one NASCAR Sprint Cup series race and at least two other nationally recognized racing events each calendar year.

§ 856. **Organization of industrial development agencies.** 1. (a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such municipality.

(b) Every such agency shall be perpetual in duration, except that if (1) such certificate is not filed with the secretary of state within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, or if (2) at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for or in behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(c) On or before March first of each year, the secretary of state shall prepare a list of agencies which failed to file a certificate in accordance with provisions of paragraph (a) of this subdivision within the preceding calendar year and transmit a copy of such list to the state comptroller and the commissioner of the department of economic development. On or before March first of each year the commissioner of the department of economic development shall prepare a list of agencies which have dissolved pursuant to paragraph (b) of this subdivision or have ceased to exist pursuant to section eight hundred eighty-two of this chapter and shall transmit a copy of such list to the state comptroller.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than seven members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. Such members may include representatives of local government, school boards, organized labor and business. A member shall continue to hold office until his successor is appointed and has qualified. The governing body of each municipality shall designate the first chairman and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

3. A majority of the members of an agency shall constitute a quorum.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the

municipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his municipal office.

§ 858. **Purposes and powers of the agency.** The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, horse racing facilities, automobile racing facilities and continuing care retirement communities, provided, however, that, of agencies governed by this article, only agencies created for the benefit of a county and the agency created for the benefit of the city of New York shall be authorized to provide financial assistance in any respect to a continuing care retirement community, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold and dispose of personal property for its corporate purposes;
- (4) To acquire by purchase, grant, lease, gift, pursuant to the provisions of the eminent domain procedure law, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes in compliance with the local zoning and planning regulations and shall take into consideration regional and local comprehensive land use plans and state designated heritage area management plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine. In the case of railroad facilities, however, the phrase to use real property or rights or easements therein shall not be interpreted to include operation by the agency of rail service upon or in conjunction with such facilities.
- (5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.
- (6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the municipality its agreed proportion of the compensation or costs;
- (7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency;
- (8) (a) To appoint an attorney, who may be the counsel of the municipality, and to fix the attorney's compensation for services which shall be payable to the attorney, and to retain and employ private consultants for professional and technical assistance and advice;  
(b) An attorney acting as bond counsel for a project must file with the agency a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to parties other than the agency the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the agency.

(9) To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private; provided, however, that any extension of an existing contract, lease or other agreement entered into by an agency with respect to a project shall be guided by the provisions of this article;

(10) To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

(11) To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

(12) To borrow money and to issue bonds and to provide for the rights of the holders thereof;

(13) To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14) To designate the depositories of its money either within or without the state;

(15) To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy of any such agreement shall be delivered to each affected tax jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes made by an agency shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the agency's activities render a project non-taxable by affected tax jurisdictions;

(16) To establish and re-establish its fiscal year; and

(17) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

**§ 858-a. Compensation, procurement and investment.** 1. The compensation of an officer or full-time employee of the agency (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the agency) shall not be contingent on the granting of financial assistance by an agency.

2. The provisions of section one hundred four-b of this chapter shall be applicable to the procurement of goods and services paid for by an agency for its own use and account.

3. The provisions of sections ten and eleven of this chapter shall be applicable to deposits and investments of funds for an agency's own use and account.

**§ 858-b. Equal employment opportunities.** 1. Each agency shall ensure

that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in the federal job training partnership (P.L. No. 97-300) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such such new employment opportunities.

**§ 859. Financial records.** 1. (a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

(c) Within thirty days after completion, a copy of the audited financial statement shall be transmitted to the commissioner of the department of economic development, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

(d) An agency with no bonds or notes issued or outstanding and no projects during the applicable accounting period may apply to the state comptroller for a waiver of the required audited financial statement. Application shall be made on such form as the comptroller may prescribe.

(e) If an agency or authority shall fail to file or substantially complete, as determined by the state comptroller, the financial

statement required by this section, the state comptroller shall provide notice to the agency or authority. The notice shall state the following:

(i) that the failure to file a financial statement as required is a violation of this section, or in the case of an insufficient financial statement, the manner in which the financial statement submitted is deficient;

(ii) that the agency or authority has thirty days to comply with this section or provide an adequate written explanation to the comptroller of the agency's or authority's reasons for the inability to comply; and

(iii) that the agency's or authority's failure to provide either the required financial statement or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement, the comptroller shall additionally notify the agency or authority that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and the agency of the agency's or authority's noncompliance with this section. Such notice from the state comptroller shall further delineate in what respect the agency or authority has failed to comply with this section. If the agency or authority has failed to file the required statement, the notice shall additionally state that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(v) If, thirty days after notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's or authority's noncompliance, the agency or authority fails to file the required statement, the comptroller shall notify the chief executive officer of the municipality for whose benefit that agency or authority was created and the agency or authority that if such report is not provided within sixty days, that the agency or authority will no longer be authorized to provide exemptions from state taxes.

(vi) If, sixty days after the notification required by subparagraph (v) of this paragraph, the comptroller has not received the required statement, the agency or authority shall not offer financial assistance which provides exemptions from state taxes until such financial statement is filed and the comptroller shall so notify the agency or authority and the chief executive officer of the municipality for whose benefit the agency was created. Provided, however, that nothing contained in this paragraph shall be deemed to modify the terms of any existing agreements.

(f) Within thirty days after completion, a copy of an audited financial statement which contains transactions of or bonds or notes of civic facilities as defined in paragraph (b) of subdivision thirteen of section eight hundred fifty-four of this article, shall be transmitted by the agency to the commissioner of health, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee.



2. On or before September first of each year, the commissioner of the department of economic development shall prepare and submit to the governor, speaker of the assembly, majority leader of the senate, and the state comptroller, a report setting forth a summary of the significant trends in operations and financing by agencies and authorities; departures from acceptable practices by agencies and authorities; a compilation by type of the bonds and notes outstanding; a compilation of all outstanding straight-lease transactions; an estimate of the total number of jobs created and retained by agency or authority projects; and any other information which in the opinion of the commissioner bears upon the discharge of the statutory functions of agencies and authorities.

3. On or before April first, nineteen hundred ninety-six, the commissioner shall submit to the director of the division of the budget, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the chairman of the senate local government committee, the chairman of the senate committee on commerce, economic development and small business, the chairman of the assembly committee on commerce, industry and economic development, the chairman of the assembly local governments committee and the chairman of the assembly real property taxation committee an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department. Such evaluation shall identify the effect of agencies and authorities on: (a) job creation and retention in the state, including the types of jobs created and retained; (b) the value of tax exemptions provided by such agencies and authorities; (c) the value of payments received in lieu of taxes received by municipalities and school districts as a result of projects sponsored by such entities; (d) a summary of the types of projects that received financial assistance; (e) a summary of the types of financial assistance provided by the agencies and authorities; (f) a summary of criteria for evaluation of projects used by agencies and authorities; (g) a summary of tax exemption policies of agencies and authorities; and (h) such other factors as may be relevant to an assessment of the performance of such agencies and authorities in creating and retaining job opportunities for residents of the state. Such evaluation shall also assess the process by which agencies and authorities grant exemptions from state taxes and make recommendations for the most efficient and effective procedures for the use of such exemptions. Such evaluation shall further include any recommendations for changes in laws governing the operations of industrial development agencies and authorities which would enhance the creation and retention of jobs in the state.

**§ 859-a. Additional prerequisites to the provisions of financial assistance.** Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the agency must comply with the following prerequisites:

1. The agency must adopt a resolution describing the project and the financial assistance that the agency is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision four of section eight hundred seventy-four of this chapter, unless the agency has followed the procedures for deviation from such policy specified in paragraph (b) of such subdivision.

2. The agency must hold a public hearing with respect to the project

and the proposed financial assistance being contemplated by the agency. Said public hearing shall be held in a city, town or village where the project proposes to locate. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The agency must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the agency with respect to the project.

**§ 859-b. Special procedure for the provision of financial assistance to continuing care retirement communities.**

1. Any applicant for financing of a continuing care retirement community shall present a completed application for a certificate of authority and documentation establishing the continuing care retirement community council's approval of that application, pursuant to article forty-six of the public health law.

2. If requested by the agency, the applicant shall present an analysis dealing with any of the issues identified in paragraph (a) of subdivision four of section eight hundred seventy-four of this article.

3. Applicants shall present the financial feasibility study, including a financial forecast and market study, and the analysis of economic costs and benefits required by article forty-six of the public health law.

4. Any information presented by the applicant pursuant to subdivisions one, two and three of this section shall be made available at the time required for published notice of the public hearing required by section eight hundred fifty-nine-a of this article. The agency shall make such information available during regular office hours in at least two locations, at least one of which shall be in the city, town or village within which the proposed project is located. Such notice shall include a statement indicating the location and times of availability of the information required by this section.

5. The industrial development agency may require the applicant to provide any additional information which it requires in order to meet the purposes of this article.

**§ 860. Moneys of the agency.** The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

**§ 861. Notification of budget.** Each agency shall mail or deliver to the chief executive officer and the governing body of the municipality for whose benefit the agency was established and make available for

public inspection and comment its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time, the agency shall file its proposed budget with the clerk of the municipality for whose benefit the agency was established. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the municipality.

§ **862. Restrictions on funds of the agency.** No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

§ **862-a. Additional restrictions on funds of the agency in connection with continuing care retirement communities.** No resolution authorizing the issuance of bonds, notes or other obligations of the agency, or for providing financial assistance in any respect, for any continuing care retirement community project shall be adopted unless and until the project has received a certificate of authorization pursuant to section forty-six hundred four-a of the public health law, and unless the project will serve the public purposes of this article by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the state.

§ **864. Bonds of the agency.** (1) The agency shall have the power and is hereby authorized from time to time to issue negotiable bonds for any of its corporate purposes without limitation as to amount. The agency shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the agency, the bonds of every issue shall be special obligations of the agency payable solely from revenues derived from the leasing, sale or other disposition of a project, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code, the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

(2) The bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, bear

interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, either within or without the state, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds may be sold at public or private sale at such price or prices as the agency shall determine.

(3) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds thereby authorized, as to:

(a) pledging all or any part of the revenues derived from the leasing, sale or other disposition of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the agency to restrict and regulate the use of a project;

(e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(h) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, duties and powers of trustee;

(i) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

**§ 866. Notes of the agency.** The agency shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever the agency shall determine that payment thereof can be made in full from any moneys or revenues which the agency expects to receive from any source. The agency may secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The agency shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the agency shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the agency to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall

be as fully negotiable as the bonds of the agency.

§ 868. **Agreements of the municipality and state.** The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

§ 870. **State and municipality not liable on bonds or notes.** The bonds or notes and other obligations of the authority shall not be a debt of the state or of the municipality, and neither the state nor the municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the agency.

§ 872. **Bonds and notes as legal investment.** The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 874. **Tax exemptions.** (1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

(2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes.

(3) Payments in lieu of taxes received by the agency shall be remitted to each affected tax jurisdiction within thirty days of receipt.

(4) (a) The agency shall establish a uniform tax exemption policy, with input from affected tax jurisdictions, which shall be applicable to the provision of financial assistance pursuant to section eight hundred fifty-nine-a of this chapter and shall provide guidelines for the

claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions can be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, agencies shall in adopting such policy consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

(b) The agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

(5) Payments in lieu of taxes which are delinquent under the agreement or which an agency fails to remit pursuant to subdivision three of this section, shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision three of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

(6) An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

(7) Any refinancing of a project shall be subject to the provisions of section eight hundred fifty-nine-a of this chapter, except where such refinancing was previously approved pursuant to such section.

(8) Agents of an agency and project operators shall annually file a

statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of authority to act as an agent of an agency or a project operator.

(9) Within thirty days of the date that the agency designates a project operator or other person to act as agent of the agency for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the agency, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the agency's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

**§ 876. Tax contract by the state.** The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the agency pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the agency issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

**§ 878. Remedies of bondholders and noteholders.** (1) In the event that the agency shall default in the payment of principal or of interest on any issue of the bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the agency shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes, then outstanding shall, in his or its own name:

(a) by suit, action or special proceeding enforce all rights of the bondholders or noteholders, including the right to require the agency to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the agency to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this title;

(b) bring suit upon such bonds or notes;

(c) by action or special proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or special proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

(3) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county in which the project or projects are located.

(4) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the agency.

(5) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of a project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the agency has covenanted to construct, and with any construction which the agency is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

(6) Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

**§ 880. Actions against the agency.** (1) In an action against the agency founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the agency and to its secretary or to its chief executive officer, and that the agency has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

(2) In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the agency or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal



law shall govern the giving of such notice. No action shall be commenced more than one year after the cause of action therefor shall have accrued.

§ **882. Termination of the agency.** Whenever all of the bonds or notes issued by the agency shall have been redeemed or cancelled, and all straight-lease transactions have been terminated, the agency shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the agency shall thereupon vest in and be possessed by the municipality.

§ **883. Conflicts of interest.** All members, officers, and employees of an agency or authority shall be subject to the provisions of article eighteen of this chapter.

§ **884. Public bidding.** The provisions of any law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act.

§ **886. Title not affected if in part unconstitutional or ineffective.** If any section, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ **888. Inconsistent provisions in other acts superseded.** Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local laws of the municipality, the provisions of this title shall be controlling except in cases of inconsistency with the Indian law.

## Application for Federal Assistance SF-424

\* 1. Type of Submission:

- ☐ Preapplication  
☒ Application  
☐ Changed/Corrected Application

\* 2. Type of Application:

- ☒ New  
☐ Continuation  
☐ Revision

\* If Revision, select appropriate letter(s):

\* Other (Specify):

\* 3. Date Received:

01/31/2019

4. Applicant Identifier:

5a. Federal Entity Identifier:

5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

\* a. Legal Name: Broome County Industrial Development Agency

\* b. Employer/Taxpayer Identification Number (EIN/TIN):

16-1136982

\* c. Organizational DUNS:

7912258810000

d. Address:

\* Street1:

Five South College Drive

Street2:

\* City:

Binghamton

County/Parish:

Broome

\* State:

NY: New York

Province:

\* Country:

USA: UNITED STATES

\* Zip / Postal Code:

13905-1355

e. Organizational Unit:

Department Name:

Division Name:

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Ms.

\* First Name:

Stacey

Middle Name:

\* Last Name:

Duncan

Suffix:

Title: Deputy Director, Community & Economic Develop

Organizational Affiliation:

Broome County Industrial Development Agency

\* Telephone Number: 607-584-9000

Fax Number:

\* Email: smd@theagency-ny.com

## Application for Federal Assistance SF-424

### \* 9. Type of Applicant 1: Select Applicant Type:

X: Other (specify)

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

Industrial Development Agency

### \* 10. Name of Federal Agency:

Environmental Protection Agency

### 11. Catalog of Federal Domestic Assistance Number:

66.818

CFDA Title:

Brownfields Assessment and Cleanup Cooperative Agreements

### \* 12. Funding Opportunity Number:

EPA-OLEM-OBLR-18-06

\* Title:

FY19 GUIDELINES FOR BROWNFIELDS ASSESSMENT GRANTS

### 13. Competition Identification Number:

Title:

### 14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment

Delete Attachment

View Attachment

### \* 15. Descriptive Title of Applicant's Project:

Broome County Brownfield Coalition

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**\* a. Applicant \* b. Program/Project 

Attach an additional list of Program/Project Congressional Districts if needed.

**17. Proposed Project:**\* a. Start Date: \* b. End Date: **18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="600,000.00"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="0.00"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="600,000.00"/>

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

- ☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .
- ☒ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**☐ Yes ☒ No

If "Yes", provide explanation and attach

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:  \* First Name:

Middle Name:

\* Last Name:

Suffix:

\* Title: \* Telephone Number:  Fax Number: \* Email: \* Signature of Authorized Representative:  \* Date Signed: